

**AMENDMENTS TO THE  
OFFICE OF ADMINISTRATIVE LAW'S REGULATIONS  
Title 1, California Code of Regulations**

**January 1, 2001**

*Amend Section 4 of Title 1 of the California Code of Regulations to read:*

§4. ~~“Plain English” requirements.~~ Determination of effect on small business.

(a) The notice of proposed adoption or amendment of a regulation shall include a determination as to whether or not the adoption or amendment affects small business. For purposes of this section, an adoption or amendment affects small business if a small business within the meaning of Government Code section ~~11342(h)~~ 11342.610:

- (1) Is legally required to comply with the regulation;
- (2) Is legally required to enforce the regulation;
- (3) Derives a benefit from the enforcement of the regulation; or
- (4) Incurs a detriment from the enforcement of the regulation.

~~(b) If the notice of proposed adoption or amendment states that the adoption or amendment affects small business, the rulemaking agency shall:~~

~~(1) Place in the notice of proposed action:~~

- ~~(A) 1. A concise plain English policy statement overview regarding each proposed regulation that explains the broad objectives of the proposed regulation; and~~
- ~~— 2. If appropriate, the specific objectives of the proposed regulation.~~

~~(B) Either of the following statements, as appropriate:~~

- ~~— 1. “The express terms of the proposed action written in plain English are~~
- ~~— available from the agency contact person named in this notice.”~~
- ~~— 2. “[The rulemaking agency] has determined that it is not feasible to draft the~~
- ~~— regulation[s] in plain English due to the technical nature of the regulation[s];~~
- ~~— however, a noncontrolling plain English summary of the regulation[s] is~~
- ~~— available from the agency contact person named in this notice.”~~

~~(2) Prepare and submit to OAL with the notice of proposed action either:~~

- ~~(A) The express terms of the proposed action, pursuant to Government Code section 11346.2(a), written in plain English pursuant to Government Code sections 11342(e) and 11346.2(a)(1) or~~

~~(B) If it is not feasible to draft the regulation in plain English due to the technical nature of the regulation, a noncontrolling plain English summary of the regulation.~~

(e**b**) If an agency determines that the regulation does not affect small business, the agency shall include in the notice of proposed action a brief explanation of the reason(s) for the agency's determination.

~~(d) Every agency that determines that the adoption or amendment of a regulation affects small business shall include in the rulemaking file either:~~

~~(1) A statement confirming that the agency has drafted the regulation in plain —English; or~~

~~(2)(A) A statement confirming that the agency determined that it was not feasible to draft the regulation in plain English; and~~

~~(B) A noncontrolling plain English summary of the regulation.~~

NOTE Authority cited: Sections 11342.4 and 11349.1(c), Government Code. Reference: Sections 11340(g), 11342(e), ~~11346.2(a)(1), 11346.5(a)(3)(B) and 11347.3,~~ 11342.610, and 11346.4(a)(3) Government Code.

***Amend Section 10 of Title 1 of the California Code of Regulations to read:***

§10. “Necessity.”

(a) In reviewing the rulemaking record for compliance with subsection (b), OAL shall not dispute the decision of a rulemaking agency to adopt a particular regulatory provision when the information provided as required by subsection (b) is also adequate to support one or more alternative conclusions.

(b) In order to meet the “necessity” standard of Government Code section 11349.1, the record of the rulemaking proceeding shall include:

~~(1) a description of the public problem, administrative requirement, or other condition or circumstance which each provision of the regulation is intended to address~~ A statement of the specific purpose of each adoption, amendment, or repeal; and

(2) information explaining why each provision of the adopted regulation is required to carry out the described purpose of the provision. Such information shall include, but is not limited to, facts, studies, or expert opinion. When the explanation is based upon policies, conclusions, speculation, or conjecture, the rulemaking record must include, in addition, supporting facts, studies, expert opinion, or other information. An “expert” within the meaning of this section is a person who possesses special skill or knowledge by reason of study or experience which is relevant to the regulation in question.

NOTE Authority cited: Sections 11342.4 and 11349.1(c), Government Code.  
Reference: Sections 11340.1, 11346.2(b), 11349(a), 11349.1(a)(1) and (c),  
Government Code.

***Repeal Section 45 of Title 1 of the California Code of Regulations:***

**§45. 15-Day Public Availability of Supporting Documents and Information.**

- ~~(a) A notice shall be deemed to comply with the requirements in Government Code Sections 11346.9(a)(1) and 11346.8(d) that certain documents and information be made available for public comment when:~~
- ~~(1) the notice contains a list specifically describing the documents and information, and states where and when they are available for public inspection; and~~
  - ~~(2) at least 15 calendar days prior to the adoption or amendment of a resulting regulation, the rulemaking agency mails a copy of the notice to the persons described in Section 44.~~
- ~~(b) The documents and information shall be available for public inspection at the location described in the notice for at least 15 calendar days prior to the adoption of the resulting regulation.~~
- ~~(c) Any written comments regarding the documents or information received by the agency during the availability period shall be summarized and responded to in the final statement of reasons as specified in Government Code Section 11346.9(a)(3).~~
- ~~(d) The rulemaking record shall contain a statement confirming that the agency complied with the requirements of subsection (a) and stating the date upon which the notice was mailed.~~

NOTE Authority cited: Sections 11342.4 and 11349.1(c), Government Code.  
Reference: Sections 11346.8(d) and 11346.9(a)(1) and (3), Government Code.